	LLGISL	TIVE OF ME		ONSEL	
<b>⊈</b>	Approved	for Filing: E.	. Chelsea-	-McCarty	¢
	<b>C</b>	01-24-02 5:	30 PM	<b>C</b>	

1	PUNITIVE DAMAGE AWARDS		
2	2002 GENERAL SESSION		
3	STATE OF UTAH		
4	Sponsor: Lyle W. Hillyard		
5	This act modifies the Judicial Code, specifically clarifying that the attorney general should		
6	be notified of an action where punitive damages are requested and the state treasurer should		
7	be notified when punitive damages in excess of \$20,000 are awarded. This act also provides		
8	that the treasurer may request the assistance of the attorney general if necessary to collect		
9	any amounts due the state.		
10	This act affects sections of Utah Code Annotated 1953 as follows:		
11	AMENDS:		
12	78-18-1, as last amended by Chapter 6, Laws of Utah 1991		
13	ENACTS:		
14	<b>78-18-1.5</b> , Utah Code Annotated 1953		
15	Be it enacted by the Legislature of the state of Utah:		
16	Section 1. Section <b>78-18-1</b> is amended to read:		
17	78-18-1. Basis for punitive damages awards Section inapplicable to DUI cases		
18	Division of award with state.		
19	(1) (a) Except as otherwise provided by statute, punitive damages may be awarded only		
20	if compensatory or general damages are awarded and it is established by clear and convincing		
21	evidence that the acts or omissions of the tortfeasor are the result of willful and malicious or		
22	intentionally fraudulent conduct, or conduct that manifests a knowing and reckless indifference		
23	toward, and a disregard of, the rights of others.		
24	(b) The limitations, standards of evidence, and standards of conduct of Subsection (1)(a)		
25	do not apply to any claim for punitive damages arising out of the tortfeasor's operation of a motor		
26	vehicle while voluntarily intoxicated or under the influence of any drug or combination of alcohol		
27	and drugs as prohibited by Section 41-6-44.		



S.B. 141 01-24-02 5:30 PM

28	(c) The award of a penalty under Section 78-11-15 or 78-11-16 regarding shoplifting is		
29	not subject to the prior award of compensatory or general damages under Subsection (1)(a)		
30	whether or not restitution has been paid to the merchant prior to or as a part of a civil action under		
31	Section 78-11-15 or 78-11-16.		
32	(2) Evidence of a party's wealth or financial condition shall be admissible only after a		
33	finding of liability for punitive damages has been made.		
34	(3) In any judgment where punitive damages are awarded [and paid], 50% of the amount		
35	of the punitive damages paid in excess of \$20,000 shall, after payment of attorneys' fees and costs,		
36	be remitted to the state treasurer for deposit into the General Fund.		
37	Section 2. Section <b>78-18-1.5</b> is enacted to read:		
38	78-18-1.5. Punitive damages Notification procedure.		
39	(1) At least seven days prior to any trial where punitive damages are requested, the plaintiff		
40	shall notify the attorney general of the case, providing the names of both parties and their attorneys.		
41	Notwithstanding Subsection 78-18-1(1)(a), punitive damages may not be awarded in an action if		
42	the notice required by this Subsection (1) is not given.		
43	(2) Any settlement reached by the parties after the notice in Subsection (1) is given shall		
44	require the attorney general's or court's approval.		
45	(3) The awardee shall present attorneys' fees and costs to the court for its approval, which		
46	shall be made a part of the court's judgment. If a separate award for attorneys' fees and costs is		
47	made, the amount may not be deducted from the remittance to the state.		
48	(4) The clerk of the court shall notify the state treasurer's office within five days upon a		
49	judgment award of punitive damages meeting the criteria of Subsection 78-18-1(3). The notice		
50	shall contain:		
51	(a) the name of the party and his attorney, against whom the judgment was ordered;		
52	(b) the amount of the judgment; and		
53	(c) the date on which the judgment was entered.		
54	(5) Upon receipt of notification, the treasurer's office shall notify the party and his attorney		
55	of the state's interest in the judgment. The state shall be treated as a party for the enforcement of		
56	its share of the judgment.		
57	(6) The treasurer's office may request the assistance of the attorney general in collecting		
58	any amounts due the state.		

01-24-02 5:30 PM S.B. 141

## Legislative Review Note as of 1-24-02 10:55 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel